IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12769 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

RAVJIBHAI JINABHAI BARAIYA

Versus

AHMEDABAD MUNICIPAL CORPN

Appearance:

MR VB GHARANIYA for Petitioner

MR HS MUNSHAW for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 09/03/2001

ORAL JUDGEMENT

Rule. Service of rule is waived by learned advocate Shri Munshaw appearing for the respondents.

2. It has been prayed in the petition that the petitioner is a daily wager, who has worked for more than 900 days under the respondent Corporation. It has been submitted by learned advocate Shri Gharaniya appearing for the petitioner that the respondent Corporation is having a policy that if a daily wager works for more than 900 days or more in consecutive 5 years, he becomes eligible for regularization. It has been submitted by him that though the petitoiner has already completed more than 900 days in 5 consecutive years, the petitioner has not been regularised in service.

3. On the other hand, learned advocate Shri Munshaw appearing for the respondent has submitted that merely because a daily wager works for 900 days in 5 consecutive years, he does not get any right to be regularised. He only gets a right to be considered for regularisation. It has been however submitted by him that there are several other factors which are to be considered before regularisation of a daily wager. Vacancy in the cadre, availability of funds and seniority of the concerned workman are relevant factors which are also to be considered before taking final decision with regard to regularisation.

4. It has been submitted by learned advocate Shri Munshaw that though the petitioner has completed 900 days as a daily wager, other factors will have to be examined by the respondent authorities before taking a final decision.

5. Looking to the facts of the case, it is directed that the respondent authorities shall consider the case of the petitioner and if the petitioner is found to be eligible for regularisation, his case for regularisation shall be considered by the respondent authorities in due course in the light of the policy framed by the respondent Corporation. The respondent shall take final decision as to whether period of 900 days was completed within 5 years before 30th June 2001. It is hoped that the other benefits which the petitioner is entitled to shall be given to the petitioner if he is eligible for the same.

The petition is allowed. Rule is made absolute to the above extent with no order as to costs. Direct service permitted.

(A.R. Dave, J.)

(hn)